

Remarks

These remarks are presented in response to an Office Action dated January 24, 2005. In that action, the examiner rejected the application under 35 U.S.C. 112, second paragraph as being indefinite because dependent claims 2 and 6 contained open language whereas claim 1 uses partially closed language. The applicant submits that this rejection is misplaced because dependent claims are necessarily read in view of all of the limitations contained in the claim from which they depend. Consequently, the closed language of claim already limits these claims, whereas the term "including" only serves to indicate a single additional element. Accordingly, reconsideration of the examiner's rejection is requested.

Likewise, reconsideration of the examiner's rejection of claims 1-20 under 35 U.S.C. 103 is also requested. The examiner appropriately cites Haddad, but notes that Haddad merely teaches the use of a preservative, rather than a biocide. Applicant submits that distinction should not be overlooked. As seen in the present application, biocides are specifically enumerated compounds with distinct properties to kill micro-organisms that would otherwise grow within the synthetic urine sample. In contrast, Haddad fails to define the term preservative or otherwise give specific examples as to what compounds may qualify as such. The applicant respectfully submits that preservatives can be any type of compound intended to maintain or preserve certain desired qualities of the sample. In the absence of specific examples, it would be improper to presume that the biocides of the present application are necessarily encompassed by Haddad's use of the term.

Moreover, all of the examiner's purported examples of biocides in the prior art would not be considered in conjunction with the Haddad reference by one skilled in the art. Foremost, while the examiner asserts the sodium azide of the Adamczyk and Bernardin references is a

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known bacterial inhibitor. However, neither of these references appear to make such a statement. More importantly, as recognized by those skilled in the art, sodium azide possesses explosive qualities when exposed to heat (in fact, this compound has been used to inflate air bags). Consequently, sodium azide would not be considered in the context of the Haddad application which specifically requires the addition of a heat activator in order to warm the sample.

Similarly, those skilled in the art would not refer to the Melius reference because it represents non-analogous art. The invention claimed in Melius appears to be directed toward an adult incontinence device. More importantly, Melius also refers to the Germall as a preservative only, and further discussion as to the purpose of adding this compound is not provided. As mentioned above, the distinction between a preservative and biocide, as intended and defined by the applicant, cannot be overlooked. Consequently, here again, one would not combine the references in the manner relied upon by the examiner.

Lastly, regarding the Watanabe reference, the examiner appears to have misread the context in which the use of bronopol is described. Column 12, lines 32-48 demonstrate that the use of bronopol is in the context of the dispensing device claimed in the patent, and it is not used in the preparation of the synthetic urine sample. In fact, careful examination of that solution (described in lines 3-21) demonstrates the inventors only intend bronopol to be used within the claimed device in order to deliver that biocide to the urine container itself, presumably to maintain sanitary conditions in the container (rather than the urine solution). Thus, the reference fails to teach or suggest combination of biocide within a synthetic urine solution. Here also, the actual device and subject matter of the Watanabe reference is quite distinct from the art field

contemplated by either the present application or the Haddad reference. In short, the combination of these references is not proper.

In view of the foregoing, reconsideration and allowance of the claims is hereby requested.

Respectfully submitted,



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